

Introduced by Senator Ortiz

February 4, 2004

An act to amend Section 22962 of the Business and Professions Code, relating to tobacco products.

LEGISLATIVE COUNSEL'S DIGEST

SB 1173, as introduced, Ortiz. Tobacco products: self-service display.

The existing Stop Tobacco Access to Kids Enforcement (STAKE) Act is designed to reduce the availability of tobacco products to minors through sales restrictions and enforcement activities. The act prohibits the furnishing of tobacco products to, and the purchase of tobacco products by, any person under the age of 18 years and authorizes the assessment of civil penalties for a violation of the act. Specifically, the STAKE Act prohibits a person engaged in the retail sale of tobacco products to sell, offer for sale, or display for sale, cigarettes by self-service display, as defined.

This bill would broaden that prohibition by prohibiting a person engaged in the retail sale of tobacco products from selling, offering for sale, or displaying for sale, any tobacco product or tobacco paraphernalia by self-service display.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 22962 of the Business and Professions
- 2 Code is amended to read:

1 22962. (a) For purposes of this section, ~~“self-service the~~
2 *following terms have the following meanings:*

3 (1) “Self-service display” means the open display of tobacco
4 products *or tobacco paraphernalia* in a manner that is accessible
5 to the general public without the assistance of the retailer or
6 employee of the retailer.

7 (2) “Tobacco paraphernalia” *means cigarette papers or*
8 *wrappers, pipes, holders of smoking materials of all types,*
9 *cigarette rolling machines, or other instruments or things designed*
10 *for the smoking or ingestion of tobacco products.*

11 (3) “Tobacco product” *means any product containing tobacco*
12 *leaf, including, but not limited to, cigarettes, cigars, pipe tobacco,*
13 *snuff, chewing tobacco, dipping tobacco, bidis, or any other*
14 *preparation of tobacco.*

15 (b) Except as permitted in subdivision (b) of Section 22960, it
16 is unlawful for ~~any~~ a person engaged in the retail sale of tobacco
17 products to sell, offer for sale, or display for sale ~~cigarettes any~~
18 *tobacco product or tobacco paraphernalia* by self-service display.
19 ~~Any~~ A person who violates this section is subject to those civil
20 penalties specified in the schedule in subdivision (a) of Section
21 22958.

22 (c) The Attorney General, a city attorney, a county counsel, or
23 a district attorney may bring a civil action to enforce this section.

24 (d) This section does not preempt or otherwise prohibit the
25 adoption of a local standard that imposes greater restrictions on the
26 access to tobacco products than the restrictions imposed by this
27 section. To the extent that there is an inconsistency between this
28 section and a local standard that imposes greater restrictions on the
29 access to tobacco products, the greater restriction on the access to
30 tobacco products in the local standard shall prevail.